

EXHIBIT B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
MINHYE PARK,

Plaintiff,

-against-

DAVID DENNIS KIM, M.D.,

Defendant.
-----X

Index No.: 1:20-cv-02636

ANSWER

**TRIAL BY JURY
DEMANDED**

Defendant DAVID DENNIS KIM, M.D., by his attorneys, HEIDELL, PITTONI,
MURPHY & BACH, LLP, upon information and belief, answers the Complaint herein as
follows:

AS AND TO “PRELIMINARY STATEMENT”

FIRST: Denies knowledge or information sufficient to form a belief as to the
allegations contained in the paragraph of the complaint designated “1” except admits that at
times not specifically referenced in the Complaint, Defendant provided treatment to Plaintiff in
accordance with the standard of care and otherwise begs leave to refer all questions of law to the
court and all questions of fact to the trier thereof.

AS AND TO “JURISDICTION”

SECOND: Denies knowledge or information sufficient to form a belief as to the
allegations contained in the paragraphs of the complaint designated “2” and “3” and otherwise
begs leave to refer all questions of law to the court and all questions of fact to the trier thereof.

AS AND TO “VENUE”

THIRD: Denies knowledge or information sufficient to form a belief as to the
allegations contained in the paragraph of the complaint designated “4” and otherwise begs leave
to refer all questions of law to the court and all questions of fact to the trier thereof.

AS AND TO “JURY DEMAND”

FOURTH: There are two paragraphs numbered “5” in the Complaint but in response to Plaintiff’s first paragraph “5,” the Answering Defendant respectfully demands trial by jury on any issue triable of right by a jury pursuant to Fed. R. Civ. P. 38(b).

AS AND TO “THE PARTIES”

FIFTH: Denies knowledge or information sufficient to form a belief as to the allegations contained in the paragraphs of the complaint in response to Plaintiff’s second paragraph “5” and paragraph “6” and otherwise begs leave to refer all questions of law to the court and all questions of fact to the trier thereof.

AS AND TO “GENERAL ALLEGATIONS”

SIXTH: Denies the allegations contained in the paragraphs of the complaint designated “7,” “8,” “9,” “10,” and “11”, except admits that at certain times not specifically set forth in the Complaint, the Answering Defendant was and is a Board certified physician duly licensed to practice medicine in the State of New York whose office is located at 143-16 Sanford Avenue, Flushing, NY 11355 and otherwise begs leave to refer all questions of law to the court and all questions of fact to the trier thereof.

SEVENTH: Denies the allegations contained in the paragraphs of the complaint designated “12,” “13,” “14,” and “15” except admits that at certain times not specifically set forth in the Complaint, the Answering Defendant rendered certain professional services to and for the Plaintiff in accordance with accepted standards of care and otherwise begs leave to refer all questions of law to the court and all questions of fact to the trier thereof.

EIGHTH: Denies the allegations contained in the paragraphs of the complaint designated “16,” “17,” and “18”.

NINTH: Denies knowledge or information sufficient to form a belief as to the allegations contained in the paragraph of the complaint designated “19” and otherwise begs leave to refer all questions of law to the court and all questions of fact to the trier thereof.

TENTH: Denies the allegations contained in the paragraphs of the complaint designated “20,” “21,” and “22.”

ELEVENTH: The allegations in paragraphs “23” and “24” contain legal conclusions to which no answer is required and the defendant otherwise begs leave to refer all questions of law to the court and all questions of fact to the trier thereof.

AS AND TO THE FIRST CAUSE OF ACTION

TWELFTH: Answering the paragraph of the complaint designated “25,” the Answering Defendant repeats and realleges each and every denial and admission in answer to the paragraphs of the complaint designated “1” through “24” with the same force and effect as if herein set forth at length.

THIRTEENTH: Denies knowledge or information sufficient to form a belief as to the allegations contained in the paragraph of the complaint designated “26” and otherwise begs leave to refer all questions of law to the court and all questions of fact to the trier thereof.

FOURTEENTH: Denies the allegations contained in the paragraphs of the complaint designated “27,” “28,” and “29”.

AS AND TO THE SECOND CAUSE OF ACTION

FIFTEENTH: Answering the paragraph of the complaint designated “30,” the Answering Defendant repeats and realleges each and every denial and admission in answer to the paragraphs of the complaint designated “1” through “29” with the same force and effect as if herein set forth at length.

SIXTEENTH: Denies the allegations contained in the paragraphs of the complaint designated “31,” “32,” and “33”.

FOR A FIRST DEFENSE

SEVENTEENTH: The court does not have jurisdiction over the defendant because defendant was not properly served with a copy of the summons and complaint due to insufficient process.

FOR A SECOND DEFENSE

EIGHTEENTH: The court does not have jurisdiction over the defendant because defendant was not properly served with a copy of the summons and complaint due to insufficient service of process.

FOR A THIRD DEFENSE

NINETEENTH: That this action was not commenced against defendant until after the expiration of the time period specified in the applicable statute of limitations and any recovery based on the alleged causes of action herein is barred.

FOR A FOURTH DEFENSE

TWENTIETH: That the equitable share of liability, if any, of defendant DAVID DENNIS KIM, M.D. shall be determined pursuant to the provisions of Article 16 of the CPLR.

FOR A FIFTH DEFENSE

TWENTY-FIRST: That one or more of the causes of action in the complaint fail to state a cause of action upon which relief may be granted.

FOR A SIXTH DEFENSE

TWENTY-SECOND: That this defendant reserves the right to amend his answers and/or affirmative defenses that may be determined applicable in the future by discovery in this matter.

FOR A SEVENTH DEFENSE

TWENTY-THIRD: Plaintiff has failed to mitigate her alleged damages claimed herein.

FOR A EIGHTH DEFENSE

TWENTY-FOURTH: This action is barred or defendant is entitled to a set-off against any award herein as plaintiffs have previously recovered sums for all or part of the damages claimed herein.

FOR A NINTH DEFENSE

TWENTY-FIFTH: The amount of alleged damages claimed by plaintiff should be reduced pursuant to CPLR §4545 to the extent of any collateral source benefits, remuneration or compensation received.

FOR A TENTH DEFENSE

TWENTY-SIXTH: That as to the cause of action in the Complaint alleging lack of informed consent, Defendant pleads the defenses in New York State Public Health Law § 2805-d.

FOR AN ELEVENTH DEFENSE

TWENTY-SEVENTH: That the Complaint was served in contravention of CPLR § 3012-a and is therefore a nullity.

FOR A TWELFTH DEFENSE

TWENTY-EIGHTH: That whatever damages may have been sustained at the time and place alleged in the complaint by plaintiff were caused, in whole or in part, by the culpable conduct of plaintiff and without any negligence on the part of defendant. Damages, if any, are to be diminished proportionally to the culpable conduct of the plaintiff.

FOR A THIRTEENTH DEFENSE

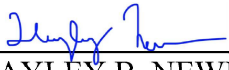
TWENTY-NINTH: That the Answering Defendant denies any and all allegations of plaintiff's complaint not specifically admitted herein.

WHEREFORE, defendant DAVID DENNIS KIM, M.D. demands judgment dismissing the complaint herein, together with the costs and disbursements of this action.

Dated: White Plains, New York
October 22, 2020

Yours, etc.,

HEIDELL, PITTONI, MURPHY & BACH, LLP

By: 
HAYLEY B. NEWMAN
Attorneys for Defendant
DAVID DENNIS KIM, M.D.
99 Park Avenue, 7th Floor
New York, New York 10016
Tel.: (212) 286-8585
Fax: (212) 490-8966
Email: hnewman@hpmb.com

BY ECF

TO: Jae Lee, Esq.
JSL LAW OFFICES, P.C.
Attorneys for Plaintiff
626 RXR Plaza
Uniondale, NY 11556
jae@lawjsl.com

Answers to Complaints

[1:20-cv-02636-PKC-LB Park v. Kim](#)

ACO

U.S. District Court

Eastern District of New York

Notice of Electronic Filing

The following transaction was entered by Newman, Hayley on 10/22/2020 at 8:57 AM EDT and filed on 10/22/2020

Case Name: Park v. Kim

Case Number: [1:20-cv-02636-PKC-LB](#)

Filer: David Dennis Kim

Document Number: [7](#)

Docket Text:

ANSWER to [1] Complaint by David Dennis Kim. (Newman, Hayley)

1:20-cv-02636-PKC-LB Notice has been electronically mailed to:

Hayley B Newman hnewman@hpmb.com

Jae Soog Lee jae@lawjsl.com

1:20-cv-02636-PKC-LB Notice will not be electronically mailed to:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

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